

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RAYSEAN BARBER,

Plaintiff,

vs.

SCOTT FRAKES, DR. BRANDON
HOLLISTER, DR. JEFFREY
KASSELMAN, DR. NATALIE BAKER,
DR. MEREDITH GRIFFIN, DR. SEAN
SEARS, and DR. JASON OURADA,

Defendants.

8:20CV282

**MEMORANDUM
AND ORDER**

On September 15, 2021, Plaintiff filed a motion requesting leave to file a Third Amended Complaint. (Filing 60.) The court's local rules provide:

A party who moves for leave to amend a pleading (including a request to add parties) must file as an attachment to the motion an unsigned copy of the proposed amended pleading that clearly identifies the proposed amendments. Except as stated in these rules or court order, the proposed amended pleading must be a complete pleading that, if allowed to be filed, supersedes the original pleading in all respects; no part of the prior pleading may be incorporated into the proposed amended pleading by reference. The motion for leave to amend must (1) specifically state the proposed amendments and (2) state whether the motion is unopposed or opposed, after conferring with opposing parties.

NECivR 15.1(a) (underlining added).

While Plaintiff has attached an unsigned copy of the proposed amended pleading to his motion, he has not complied with the other requirement of the rule by stating the proposed amendments and, after conferring with opposing parties, stating whether the motion is unopposed or opposed. "Nebraska Civil Rule 15.1(a)

is a long-standing rule of this Court which serves to avoid unnecessary motion practice and delayed case progression.” *Ashford v. Douglas Cty.*, No. 8:20-CV-36, 2021 WL 4129254, at *6 (D. Neb. Sept. 9, 2021). “This Court’s local rules are rules, not suggestions.” *Id.* The court appreciates that Plaintiff is proceeding pro se, but “pro se litigants are not excused from failing to comply with substantive and procedural law.” *Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir. 1984); *see* NEGenR 1.3(g) (“[P]arties who proceed pro se are bound by and must comply with all local and federal procedural rules.”); *Carter v. Muldoon*, No. 8:17CV319, 2018 WL 4775439, at *1 (D. Neb. Oct. 3, 2018) (denying pro se plaintiff’s motion to amend pleadings for noncompliance with local rules).¹

IT IS THEREFORE ORDERED that Plaintiff’s motion to amend second amended complaint (Filing 60) is denied without prejudice.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge

¹ Although Defendants have not filed briefs in opposition to Plaintiff’s motion, “[f]ailure to file an opposing brief is not considered a confession of a motion.” NECivR 7.1(b)(1)(C); *see Carter*, 2018 WL 4775439, at *1 n. 2 (but noting that “a response to Plaintiff’s motion by Defendants would have been helpful to the Court.”).